

National Credit Union Administration

§ 723.6

§ 723.3 What are the requirements for construction and development lending?

Unless the Regional Director grants a waiver, loans granted for the construction or development of commercial or residential property are subject to the following additional requirements.

(a) The aggregate of all construction and development loans must not exceed 15% of net worth. To determine the aggregate, you may exclude any portion of a loan:

(1) Secured by shares in the credit union;

(2) Secured by deposits in another financial institution;

(3) Fully or partially insured or guaranteed by any agency of the federal government, state, or its political subdivisions; or

(4) Subject to an advance commitment to purchase by any agency of the federal government, state, or its political subdivisions;

(b) The borrower must have a minimum of 35% equity interest in the project being financed; and

(c) The funds may be released only after on-site, written inspections by qualified personnel and according to a preapproved draw schedule and any other conditions as set forth in the loan documentation.

§ 723.4 What are the other applicable regulations?

The provisions of § 701.21(a) through (g) of this chapter apply to member business loans granted by federal credit unions to the extent they are consistent with this part. Except as required by part 741 of NCUA's regulations, federally insured credit unions are not required to comply with the provisions of § 701.21(a) through (g).

EFFECTIVE DATE NOTE: At 66 FR 65624, Dec. 20, 2001, § 723.4 was amended by revising the second sentence, effective Jan. 22, 2002. For the convenience of the user, the revised text is set forth as follows:

§ 723.4 What are the other applicable regulations?

* * * Except as required by part 741 of this chapter, federally insured state-chartered credit unions are not required to comply with the provisions of § 701.21(a) through (g) of this chapter.

§ 723.5 How do you implement a member business loan program?

The board of directors must adopt specific business loan policies and review them at least annually. The board must also utilize the services of an individual with at least two years direct experience with the type of lending the credit union will be engaging in. Credit unions do not have to hire staff to meet the requirements of this section; however, credit unions must ensure that the expertise is available. A credit union can meet the experience requirement through various approaches. For example, a credit union can use the services of a credit union service organization, an employee of another credit union, an independent contractor, or other third parties. However, the actual decision to grant a loan must reside with the credit union.

§ 723.6 What must your member business loan policy address?

At a minimum, your policy must address the following:

(a) The types of business loans you will make;

(b) Your trade area;

(c) The maximum amount of your assets, in relation to net worth, that you will invest in business loans;

(d) The maximum amount of your assets, in relation to net worth, that you will invest in a given category or type of business loan;

(e) The maximum amount of your assets, in relation to net worth, that you will loan to any one member or group of associated members, subject to § 723.8;

(f) The qualifications and experience of personnel (minimum of 2 years) involved in making and administering business loans;

(g) A requirement to analyze and document the ability of the borrower to repay the loan;

(h) Receipt and periodic updating of financial statements and other documentation, including tax returns;

(i) A requirement for sufficient documentation supporting each request to extend credit, or increase an existing loan or line of credit (except where the board of directors finds that the documentation requirements are not generally available for a particular type of

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business loan and states the reasons for those findings in the credit union's written policies). At a minimum, your documentation must include the following:

- (1) Balance sheet;
- (2) Cash flow analysis;
- (3) Income statement;
- (4) Tax data;
- (5) Analysis of leveraging; and
- (6) Comparison with industry average or similar analysis;
- (j) The collateral requirements must include:
 - (1) Loan-to-value ratios;
 - (2) Determination of value;
 - (3) Determination of ownership;
 - (4) Steps to secure various types of collateral; and
 - (5) How often the credit union will re-evaluate the value and marketability of collateral;
- (k) The interest rates and maturities of business loans;
- (l) General loan procedures which include:
 - (1) Loan monitoring;
 - (2) Servicing and follow-up; and
 - (3) Collection;
- (m) Identification of those individuals prohibited from receiving member business loans.

§ 723.7 What are the collateral and security requirements?

(a) Unless your Regional Director grants a waiver, all member business loans must be secured by collateral as follows:

Lien	Minimum loan to value requirements
All	LTV ratios for all liens cannot exceed 80% unless the value in excess of 80% is covered through private mortgage or equivalent insurance but in no case can it exceed 95%.

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Lien	Minimum loan to value requirements
First with PMI or similar type of insurer.	You may grant a LTV ratio in excess of 80% only where the value in excess of 80% is covered through: acquisition of private mortgage or equivalent type insurance provided by an insurer acceptable to the credit union (where available); insurance or guarantees by, or subject to advance commitment to purchase by, an agency of the federal government; or insurance or guarantees by, or subject to advance commitment to purchase by, an agency of a state or any of its political subdivisions.
First	LTV ratios up to 80%.
Second	LTV ratios up to 80%.

(b) Principals, other than a not for profit organization as defined by the Internal Revenue Service Code (26 U.S.C. 501) or those where the Regional Director grants a waiver, must provide their personal liability and guarantee.

(c) Federally insured credit unions are exempt from the provisions of paragraphs (a) and (b) of this section with respect to credit card line of credit programs offered to nonnatural person members that are limited to routine purposes normally made available under those programs.

§ 723.8 How much may one member, or a group of associated members, borrow?

Unless your Regional Director grants a waiver for a higher amount the aggregate amount of outstanding member business loans (including any unfunded commitments) to any one member or group of associated members must not exceed the greater of:

- (a) 15% of the credit union's net worth; or
- (b) \$100,000.

§ 723.9 How do you calculate the aggregate 15% limit?

(a) *Step 1.* Calculate the numerator by adding together the total outstanding balance of member business loans to any one member, or group of associated members. From this amount, subtract any portion:

- (1) Secured by shares in the credit union;